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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,184	07/23/2003	Eugenio Sergio Longo	D-43481-01	8237

7590

09/17/2004

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EXAMINER
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NOLAN, SANDRA M

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 09/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/625,184	Applicant(s) LONGO ET AL.	
	Examiner Sandra M. Nolan	Art Unit 1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7-23-03</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Claims***

1. Claims 1-19 are pending.

### ***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on 23 July 2003 was considered by the examiner.

### ***Specification***

3. The abstract of the disclosure is objected to because it is too long and contains two paragraphs. Correction is required. See MPEP § 608.01(b).

The abstract should contain 15 lines or less or 150 words or less.

### ***Claim Objections***

4. Claim 5 is objected to because of the following informalities: it recites two claims. Appropriate correction is required.

Note: The examiner has treated claim 5 as if the second claim (claim 4) did not appear therein.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Beuzelin et al (GB 2288177A). Beuzelin was supplied with the IDS.

Beuzelin teaches, at page 23, Table 3, a sheet having the five layers as follows:  
polystyrene/binder/(ethylene-vinyl alcohol copolymer)/binder/polyethylene.

The sheet has at thickness of 790 microns (page 22, line 19). The polystyrene (PS) therein has a thickness of 600 microns (page 23, Table 3, layer 1).

The PS component may contain various amounts of maleic anhydride (MA) modified PS (See the A! resins in Table 5, at page 27). Taking the 5 parts PS1 gMA and PS1 at II(4) as an example, the content of the PS/modified PS resin compared to the content of EVA is  $(5+35)/60$  or 0.67:1.

Anhydride-grafted styrene/diene block copolymers are taught at page 3, lines 13-24 and page 5, lines 24-27.

The Bauzelin sheets are easily cut (page 5, line 16).

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gusavage et al (EPO 0707955A1) in view of Beuzelin. Gusavage was cited in the IDS.

Gusavage teaches trays of foamed polystyrene having covering films that styrene/butadiene layers thereon (abstract). The films have sealant/barrier/bonding structure (page 18, claim 6).

Beuzelin is discussed above. At page 5, line 16, it teaches that its sheets are easily cut.

The references are analogous because they both deal with packaging that included films/sheets having sealant/barrier/bonding structure.

It would have been obvious to one having ordinary skill in the art at the time that the invention was made to employ the films of Beuzelin on the trays of Gusavage in order to facilitate the construction of the trays by making cutting of the film easier.

The motivation to employ the films of Beuzelin on the trays of Gusavage is found at page 5, line 16 of Beuzelin, where its sheets are said to be easily cut.

It is deemed desirable to make covered trays with films/sheets that are easily cut by shortening the processing time needed to make each tray and thereby trim production costs.

The use of reclaimed foam material in the trays is deemed a matter of engineering choice, depending upon economic and environmental factors.

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**Conclusion**

Any inquiry concerning this communication should be addressed to Sandra M. Nolan, at telephone number 571/272-1495. She can normally be reached Monday through Thursday, from 6:30 am to 4:00 pm, Eastern Time.

If attempts to reach the examiner are unsuccessful, her supervisor, Harold Pyon, can be reached at 571/272-1498.

The fax number for patent application documents is 703/872-9306.



S. M. Nolan  
Primary Examiner  
Technology Center 1700

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